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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

LAUSTEVEION JOHNSON,

Plaintiff

v.

DAVID WILLIS, et al.,

Defendants

Case No.: 2:17-cv-01121-APG-DJA

**Order Regarding Motions to Vacate Trial
Date**

[ECF Nos. 75, 76, 77, 78]

Plaintiff Lausteveion Johnson moves to vacate the calendar call and trial date in this case and to reschedule it for the fall of 2021 due to Covid concerns. ECF Nos. 75, 77. Johnson alternatively moves to voluntarily dismiss his case if I will not reschedule. ECF No. 78. Finally, Johnson moves for an immediate transfer from Southern Desert Correctional Center to Lovelock Correctional Center. ECF No. 76. The defendants do not oppose moving the trial date. But they oppose the court ordering Johnson's transfer, noting that it is up to the Nevada Department of Corrections (NDOC) whether and when to transfer Johnson.

In light of the parties' agreement to continue the trial date, I grant Johnson's motions to continue the trial. Consequently, I deny as moot his alternative motion to voluntarily dismiss his claims. Finally, I deny Johnson's motion that I order NDOC to transfer him to Lovelock. To the extent Johnson is seeking injunctive relief, a request to transfer him between facilities is not within the scope of this case. *See De Beers Consol. Mines v. United States*, 325 U.S. 212, 220 (1945) (stating that a court cannot issue an injunction that "deals with a matter lying wholly outside the issues in the suit"). And whether and when to transfer Johnson is a matter for NDOC to decide. But to the extent NDOC transported Johnson to Southern Desert for the trial, now that

1 the trial is continued Johnson may present this order in support of any request he may make to
2 NDOC to transfer him to Lovelock.

3 I THEREFORE ORDER that plaintiff Lausteveion Johnson's motions to continue the
4 trial (**ECF Nos. 75, 77**) are **GRANTED**. The January 19, 2021 calendar call and January 25,
5 2021 trial are VACATED. The trial is set on the stacked calendar beginning on September 13,
6 2021; calendar call is September 7, 2021 at 8:45 a.m.

7 I FURTHER ORDER that plaintiff Lausteveion Johnson's motion to voluntarily dismiss
8 (**ECF No. 78**) is **DENIED** as moot.

9 I FURTHER ORDER that plaintiff Lausteveion Johnson's motion for immediate transfer
10 (**ECF No. 76**) is **DENIED**.

11 DATED this 3rd day of December, 2020.



ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE